

REMARKS

This is in response to the non-final Official Action currently outstanding with respect to the above-identified application.

Claims 1-19 were present in this application as of the time of the issuance of the currently outstanding Official Action. By the foregoing Amendment, Claims 1 and 5 have been amended. No claims have been cancelled and no New Claims have been added. No new matter has been added to this application by virtue of the amendment of any of the claims. Accordingly, upon the entry of the foregoing Amendment, Claims 1-19 will constitute the claims under active prosecution in this application.

A version of the claims as they will stand upon the entry of this amendment is set forth above as required by the Rules.

More specifically, it is noted that in the currently outstanding Official Action, the Examiner has:

1. Acknowledged Applicants' claim for foreign priority under 35 USC 119(a)-(d), and indicated that the required certified copies of the priority document have been received by the United States Patent and Trademark Office.
2. Provided Applicants with a copy of a Notice of References Cited (Form PTO-892) and copies of the references cited therein.
3. Acknowledged Applicants' Information Disclosure Statements by providing Applicants with a copy of the Forms PTO-1449 that accompanied those Statements duly signed, dated and initialed by the Examiner to confirm his consideration of the art disclosed therein;

4. Failed to advise Applicants concerning whether or not the new formal drawings submitted on 28 July 2003 that add the legend -- PRIOR ART -- to Figures 6-10 should be are acceptable. **An indication concerning the acceptability of the new formal drawings filed on 28 July 2003 in response to this communication is respectfully requested.**
5. Rejected Claims 1-17 under 35 USC 102(e) as being anticipated by the Maeda, et al reference (US Patent No. 6,215,758).
6. Objected to Claims 18-19 as being respectively dependent upon rejected base claims, but also indicated that those claims would be allowable if rewritten in independent form including all of the limitations of their respective base claims and any intervening claims.
7. Indicated that the remaining art is considered to be pertinent to Applicants' specification, but failed to apply any of that art against any of the currently outstanding claims of this application.

Further comment concerning items 1-4 and 6-7 is not deemed to be required in these Remarks.

As previously stated in response to the previous rejection in this application, it is so well known as not to require citation that in order to reject a claim under 35 USC 102 as being anticipated it must be shown that all of the elements of the claim are contained in a single prior art reference in the same operative relationship to one another as that claimed. For the reasons set forth herein, Applicants respectfully submit that the Examiner not only has failed to establish anticipation under this standard, but he has failed to establish that the references he has applied against the present claims would have taught, disclosed or suggested the present invention to one of ordinary skill in the art at the time that it was made.

Applicants respectfully thank the Examiner for the courtesy accorded to their undersigned representative during a series of telephone interviews between 9 January 2003 and 20 January 2003 concerning the application of the above to the presently pending claims of this application in view of the teachings of the cited Maeda, et al. reference. For the record, the reason for the long time span over which these interviews were conducted was that the Examiner encountered difficulty in retrieving the file concerning this application from the storage facility to which it had been sent. Hence, the early discussions in this sequence were limited to arranging a mutually acceptable interview schedule and to a general synopsis of Applicants' positions for the Examiner's consideration during the course of his review of the file once he finally received the file.

Applicants' positions concerning the currently outstanding Official Action as explained to the Examiner are as follows.

The Maeda, et al. reference does not teach, disclose or suggest a "pre-write field". Accordingly, Applicants proposed the deletion of the pre-write field limitation from Claim 5 and the addition of that limitation to Claim 1 as set forth above.

Further, the following features of the following claims are not taught, disclosed or suggested by the Maeda reference either:

- (i) "a clock field having a different light reflectance" as set forth in independent Claim 6;
- (ii) "a data rearrangement circuit" as set forth in independent Claim 8;
- (iii) "a window circuit" as set forth in Claim 10;
- (iv) "a phase adjusting circuit" as set forth in Claim 11;

- (v) "a clock field having different light reflectance" as set forth in independent Claim 12;
- (vi) "a synchronization pattern means" as set forth in independent Claim 12; and
- (vii) "a window means" as set forth in Claim 13.

More specifically in the above regards, it is Applicants' position that the Examiner has considered the Maeda Figures 25-29 as a coherent group, i.e., he has not noticed the fact that Figures 25 and 26 are illustrative of the art that Maeda, et al. considered to be prior art to their invention as shown in Figures 26-29. (Compare the Background of the Invention section of the Maeda, et al reference at columns 1-2 thereof with the Preferred Embodiment section thereof at columns 6-7 and 12-14 in particular) In other words, the segment division in the prior art to the Maeda, et al. invention as shown and described with respect to Figs. 25-26 cannot appropriately be directly interrelated with the data area with wave shaped sides of the Maeda, et al. invention as asserted by the Examiner in the currently outstanding Official Action.

Thus, it will be understood that the Maeda, et al. invention effectively overlaps the data area with the clock and resync areas in the physical structure of the disc and separates them by a demodulation technique (circuit) in use. This is completely different from a disc structure with adjacently disposed data, resync, pre-write and post write areas as disclosed in the present specification. Further, it cannot be fairly said that the Maeda, et al. disclosure of prior art and an allegedly distinct invention with respect thereto taken together constitute an appropriate anticipatory disclosure under the terms of 35 USC 102.

An example of this is shown by the Examiner's attempt to equate the so-called "synthesizing circuit 1298" of the Maeda, et al. reference with the "data rearrangement circuit" of the present invention. The so-called "synthesizing circuit 1298" is described at column 13, lines 54-67 of the Maeda, et al. reference only in very general terms. Nevertheless, it remains clear from the remainder of the Maeda, et al. disclosure that the circuit of which the "reproduction and synthesizing circuit 1298" forms a part is really a demodulating circuit. More specifically, that circuit appears to be used to convert the waveforms created by photodetector 288, pre-amplified 1294 and waveform shaping circuit 1295 from the so-called wobbling data of the inner circumference of the side border 14 of the groove track 272, and the wobbling data of the inner circumference of the side border 15 of the groove track 272, respectively, in combination with the output of the mechanical controller 1303 (which is associated with the coordination of the operation of the spindle and the optical head) into reproduction clock signals used in the synchronization and reproduction of the data. Hence, it appears that in Maeda, et al. the phase of the waveforms derived from the wobbling side borders of the grooves provides the clocking and synchronizing information used by the formatter in inputting or outputting data from the portion of the base of the grooves between the wobbling side borders. This is not the same thing as offsetting the displacement of data on a disc caused as a result of a defective clock mark according to synchronization information in a synchronization field located sequentially relative to data, a clock mark and a pre-write fields in a data segment on a disc (see Claim 1).

It is Applicants' representatives understanding that as a result of the telephone interviews mentioned above and discussions with his supervisor, the Examiner has agreed that his currently outstanding rejection under 35 USC 102(e) is in error and should be withdrawn. Further, it is Applicants' representative's understanding that subject to the conduct of an update search and further consideration of such issues under 35 USC 103(a) as have not yet been fully considered, at the end of the interviews mentioned above the Examiner was in agreement with the Applicants' positions as set forth herein.

Accordingly, reconsideration of this application as hereinabove amended and the allowance of Claims 1-19 in response to this communication are respectfully requested.

Also, pursuant to their duty of full and complete disclosure, Applicants wish to call the Examiner's attention to the following translation of paragraph 0019 of the document JP-10-334607 which has material relevance to the present invention. A copy of this document was filed with an Information Disclosure Statement in this application on 25 November 2003 with only an Abstract being provided in the English language.

"[0019] As error codes are assigned as in Figure 1(B), a sector is divided into recording segments as in Figure 1(C). The recording segments are arranged in N pairs, each pair being made up of 68 bytes of data, i.e., 64 bytes of data shown in Figure 1(B) plus an error code (4 bytes). Under these conditions, error connection capability is further improved by assigning a resynchronization signal which in data reproduction prevents a phase shift when bits are divided into bytes due to, for example, a burst error as shown in the figure."

Finally, Applicants believe that additional fees are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. **04-1105**, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

Date: January 23, 2004

By: David A. Tucker
David A. Tucker
Reg. No. 27,840
Attorney for Applicant(s)

EDWARDS & ANGELL, LLP
P.O. Box 9169
101 Federal Street
Boston, MA 02109
(617) 523-3400
429575